

***Town of Weare***  
ZONING BOARD OF ADJUSTMENT  
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**ZONING BOARD OF ADJUSTMENT  
MINUTES  
Tuesday November 2, 2010  
\*\*FINAL COPY\*\***

**PRESENT:** Forrest Esenwine, Member; June Purington, Member; Ian McSweeney, Member; Neal Kurk, Alternate; Elwood Stagakis, Alternate; Malcolm Wright, Alternate, Chip Meany, Code Enforcement Officer; Sheila Savaria, Recording Secretary.

**GUESTS:** Ginger Esenwine, Ryan LaPlante, Jen Hodgdon, Pat Henault, Stephen Henault

**I. INTRODUCTION:**

Acting Chairman Forrest Esenwine called this meeting to order at 7:35 PM and asked the board members present to introduce themselves. Acting Chairman Esenwine explained to those present the way by which the board conducts business.

**II. ADMINISTRATIVE ITEMS:**

Acting Chairman Esenwine appointed Alternates Neal Kurk and Elwood Stagakis as voting members for case #1010.

**III. PUBLIC HEARINGS:**

Case #1010 Stephen & Patricia Henault  
VARIANCE Article 17, Section 1.1

The applicant is requesting a Variance to demolish and rebuild a larger home on an existing lot of record on a class 6 road. The building inspector has denied his application for a building permit and referred applicants to the ZBA  
Tax Map 106-48 56 Branch Road

Ian McSweeney moved to accept the application as submitted; June Purington seconded, all voted in favor.

Stephen and Patricia Henault of 129 Byam Road in New Boston wish to build on Branch Road, a private road with a non-conforming 1/2 acre lot. There was discussion whether it was in fact a class 6 road or a private road. The existing building is a 916 sq. foot, 1 1/2 story, partially insulated camp with 2 bedrooms. The Henaults are proposing to rebuild a 2-story, year-round residence on a foundation that is approximately 1200 sq. feet with 2 bedrooms, and 2 bathrooms. They will be adding a new well and a hot air furnace in the basement. The Henaults read their answers to the questions on the variance application for the board.

1. The granting of the variance will not be contrary to the public because the Henaults wish to rebuild a larger building on the site and tear down the existing structure.
2. Appealing to ZBA – Because the property is on a class 6 road.
3. Justice will be done – It is an older structure requiring extensive work and renovations and they will improve the property. It would cost just as much to repair, so they would rather build. They want to rip down the existing camp, build a foundation, and rebuild a proper building. It is currently built on piers that are rotting and disintegrating.
4. The Henaults do not feel it will negatively affect values of surrounding properties values. They will be making the structure more energy efficient and appealing. A lot of other properties in the area are being upgraded as well, they'd like to keep up.

5. Special conditions of the property that distinguishes it from other properties are the size, at just over a half acre, and the fact that it is sitting up on the road and not near the water, and it's on a private road. The Henaults explained that there is already an existing property on the site. They are not changing the use, they are improving it by updating it and making it more energy efficient.

Acting Chairman Esenwine closed the hearing for case #1010 at 8:23pm.

Neal Kurk asked that if the ZBA denies them, would they still qualify to expand and repair the existing structure without requiring a variance? Chip responded by saying that since it's an existing home, if they are not approved, they could build all they want to the existing structure without a variance as long as they meet setback requirements and building codes. Acting Chairman Esenwine said it is the boards job to determine whether a variance should be granted to build a house on a private road. If this is denied, are they doing a substantial justice, or is a substantial justice being done allowing them to build? Will it adversely affect the area or town? Is it a reasonable use to the road and town?

June Purington moved to accept point 1; Ian McSweeney seconded, all voted in favor.

June Purington moved to accept point 2; Ian McSweeney seconded, all voted in favor.

June Purington moved to accept point 3; Elwood Stagakis seconded, all voted in favor.

June Purington moved to accept point 4; Elwood Stagakis seconded, all voted in favor.

June Purington moved to accept point 5; Ian McSweeney seconded.

Discussion: Mr. Kurk felt that while there is substantial justice, in order to approve this, the board is required to find unnecessary hardship. Mr. Kurk did not find any special condition of the property that distinguishes it from other properties. Elwood Stagakis agrees that there are no special exceptions or unnecessary hardship, but it is unfair to impose this on them, but no one else in the neighborhood. Forrest Esenwine said that the special exception of this property is the location; it is on a road that has other rebuilt structures around it. Repairing or restoring what is there and the costs associated may not be reasonable, and it is likely more reasonable to tear it down and rebuild. Four members voted in favor of point 5, Neal Kurk was opposed.

June Purington moved to grant the variance with the restriction that the new building conform to the plan presented in the application; Ian McSweeney seconded, all voted in favor. The motion was granted, subject to those conditions, as well as the receipt of any shoreland waivers from DES

Case #1110 Ryan LaPlante & Jennifer Hodgdon  
SPECIAL EXCEPTION Article 30-A 3.1  
The applicants wish to place a metal shed on their property  
in the Mount Dearborn Historic overlay district  
Tax Map 408-52 25 Mount Dearborn Road

Acting Chairman Esenwine appointed Neal Kurk and Malcolm Wright as voting members for this case.

There was one abutter comment from Mr. Woodbury that said the elders of the church did not have a problem with LaPlante and Hodgdon placing a shed on their property.

Neal Kurk moved to accept the application as completed; June Purington seconded, all voted in favor.

LaPlante and Hodgdon read their application aloud to the board:

1. The site is an appropriate location for such a use because it will allow more storage of stuff scattered about the yard and allow the property to be presentable to the neighborhood.
2. The proposed use will not adversely affect the neighborhood or reduce real estate values because the shed will allow outdoor storage of equipment and tools to allow it to be more presentable to the neighbors.
3. The shed will be placed at least 15 feet from the property line and at least 25 feet from the road so it will not be a serious hazard to vehicles or pedestrians.

4. The proposed use will not be an undue burden on the town.
5. Question 5 was not applicable in this case.
6. There are already buffers in place for the shed because it is being placed in a woody area where there is a dense planting of shrubbery and a stone wall.
7. Mount Dearborn is in a historical overlay.

Neal Kurk felt that the shed is period appropriate and if the applicant meets setback requirements, the application should be granted because there is no adverse effect on the district. You will be able to see the shed from the road, but it is not visually objectionable to need visual screening.

June Purington moved to grant a special exception in case #1110 with the stipulation that the building meets all current minimum setback requirements (30' from the front, and 15' from the side). It should be noted that the board would not object to a wood shed as opposed to a metal shed. Malcolm Wright seconded the motion, all voted in favor.

#### IV: OTHER BUSINESS:

Minutes: Forrest Esenwine moved to accept the September 7 minutes, as amended; June Purington seconded, all voted in favor.

Forrest Esenwine moved to accept the October 5 minutes, as amended; June Purington seconded, all voted in favor.

Chip Meany presented a letter to the board from Cronin and Bisson, the attorney for Doug and Mary Graves. Forrest Esenwine acknowledged receipt of the letter and will have it forwarded to the Town's Attorney for review.

V: Adjournment: As there was no other business to come before the board, June Purington moved to adjourn at 9:26 pm; Ian McSweeney seconded, all voted in favor.

Respectfully Submitted,

Sheila Savaria  
Recording Secretary